

Meeting of 2005-10-11 Regular Meeting

MINUTES  
LAWTON CITY COUNCIL REGULAR MEETING  
OCTOBER 11, 2005 - 6:00 P.M.  
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr.                      Also Present:  
Presiding                      Larry Mitchell, City Manager  
   John Vincent, City Attorney  
   Traci Hushbeck, City Clerk  
   COL Sonny Uberti, Fort Sill Liaison

Mayor Purcell called the meeting to order at 6:04 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by the Pastor Dean Robinson, Bethel Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT:                      Bill Shoemate, Ward One  
Rex Givens, Ward Two  
   Janice Drewry, Ward Three  
   Keith Jackson, Ward Four  
Robert Shanklin, Ward Five  
Jeffrey Patton, Ward Six  
   Stanley Haywood, Ward Seven  
   Randy Warren, Ward Eight

ABSENT: None

PROCLAMATION FOR FIRE PREVENTION WEEK.

Mayor Purcell proclaimed October 9-15, 2005 as Fire Prevention Week. The proclamation was signed by Mayor Purcell, COL Uberti, Lawton Fire Chief Bart Hadley and Fort Sill Fire Chief Charles Rivera.

PROCLAMATION FOR LIGHTS ON AFTER SCHOOL DAY.

Mayor Purcell proclaimed October 20<sup>th</sup> as Lights on After School Day and presented the proclamation to Martha McCartney and Kathy Dettiway. This proclamation promotes high quality and innovative after school programs and activities.

PROCLAMATION FOR NATIONAL ARTS & HUMANITIES MONTH.

Mayor Purcell proclaimed the month of October as National Arts and Humanities Month. He presented the proclamation to members of the Arts and Humanities Council. Tony Pokorny, Chairman of the Arts and Humanities Council, thanked the City Council for their support of the arts.

AUDIENCE PARTICIPATION: None

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL MEETING OF SEPTEMBER 13, 2005.

MOVED by Warren, SECOND by Patton, to approve the Minutes of September 13, 2005. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

CONSENT AGENDA: Mayor Purcell requested items 6, 7, 17 and 21 be considered separately. Councilmember Haywood requested item #2, Jackson requested #15 and Warren requested #1 be considered separately.

MOVED by Warren, SECOND by Haywood, to approve the Consent Agenda items as recommended with the exception of items 1, 2, 6, 7, 15, 17, and 21. AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

1. Consider the following damage claim recommended for approval and consider passage of any resolution authorizing the City Attorney to file a friendly suit for the claim which is over 400.00: Nona & Johnny Brown in the

amount of \$450.00. Exhibits: Legal Opinion/Recommendation; Resolution No. 05-\_\_\_.

Warren stated this citizen had a vehicle that would get him from point A to point B. A wheel fell off of a city vehicle and struck their car. The lowest estimate to repair their car is \$955.00. Legal staff recommends paying \$450 because that is the blue book value of their car. He would recommend that we pay the full \$955 or provide them with a vehicle. They had one before they were hit and they are not going to replace it for \$450.

MOVED by Warren, SECOND by Shoemate, to adopt **Resolution No. 05-169** approving the claim of Nona and Johnny Brown in the adjusted amount of \$955.00. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

2. Consider the following damage claims recommended for denial: Willie F. Russell in the amount of \$1,050.00, Billy & Linda Cummings in the amount of \$1,500.00. Exhibits: Legal Opinions/Recommendations.

Haywood stated that Mr. Russell is in attendance and would like to address the City Council.

Willie Russell, 502 Summit, stated he had a problem with the officer and the reporting of the stolen car. He bought the car in April of this year for \$1050.00. The car has been stolen twice. The first time it was stolen it was brought right back to him with the title in the glove compartment. This time he could not find the car for two months. He had the title but it had not been transferred, but it was proof of ownership. The police could not find the car in the impoundment records or the computer. He finally found the car at Corley's Garage and it was sold for \$492.00. He feels the police are liable for the expense of getting his car back.

Vincent stated the issue is that Mr. Russell has never been able to provide his staff with proof of ownership, therefore by state law they cannot release the car. The car can only be released to the registered owner of the vehicle. Vincent stated Mr. Russell is not a proper claimant without proof of ownership.

Shoemate questioned if Mr. Russell had a bill of sale for the car.

Mr. Russell stated that the person who sold him the car was not notified of the car being stolen the second time.

Haywood questioned if Mr. Russell had a title.

Vincent stated the title was never transferred into Mr. Russell's name. The car has been sold. The impound company is suppose to notify the registered owner when the car is impounded.

Chief Ronnie Smith, Lawton Police Department, stated by policy, a letter is sent to the registered owner on the title.

Patton questioned how long a person has to transfer the title.

Vincent stated a person has thirty days from the date the car is purchased to transfer the title.

Patton questioned if the titleholder is sent a certified letter from the police department.

Chief Smith stated it is sent in regular mail.

Vincent stated as far as everyone is concerned, the person who sold the car to Mr. Russell is still considered the owner.

Mr. Russell stated the previous owner never received a letter the second time the car was stolen.

MOVED by Haywood, SECOND by Warren, to table the claim of Willie F. Russell. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

MOVED by Warren, SECOND by Haywood, to deny the claim of Billy and Linda Cummings. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

Mayor Purcell requested that item #17 be discussed.

17. Consider accepting the donation of a trained police dog. Exhibits: Memorandum of Understanding reference donation of Major, a police dog.

Chief Smith stated that Detective Shucker has previously donated a dog to the Lawton Police Department. That

dog Oakley has recently been retired and Detective Shucker would like to donate another dog Major.

Detective David Shucker, Lawton Police Department, present his new canine named Major. His former dog, Oakley, spent 8 years of service with the police department and seized approximately \$4.2 million dollars worth of drugs and narcotics. Knowing Oakley would soon retire, Detective Shucker spent the last year looking for a dog to replace her. Major comes from a group called Paws for Cause out of Michigan. He was originally donated to be an assistance dog, but he had a little too much spirit to become a guide dog. He has been through about 210 hours of training. He is certified by CLEET as a narcotics detection dog. Detective Shucker stated he would like to donate Major to the City of Lawton to serve as his partner.

Mayor Purcell thanked Detective Shucker and expressed appreciation for his hard work and this contribution to the city.

Shanklin questioned why he went to Michigan to get the dog.

Shucker stated the organization from Michigan called him because they felt he would be a good police dog. He has traded dogs with this organization in the past.

Shucker also introduced Speedy, a new patrol dog who was purchased with donated funds from Mr. Bob Williams.

MOVED by Drewry, SECOND by Shoemate, to accept the donation of a trained police dog. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

Mayor Purcell requested that item #6 be discussed.

6. Consider approving a Resolution amending Resolution 04-56 by providing for additional members and clarifying the duration of the Lawton Base Realignment and Closure Committee. Exhibits: Resolution No. 05-\_\_\_\_.

Mayor Purcell stated there has been some confusion as to what was written. A year and a half ago the City Council created a commission of eleven members to work on BRAC issues. He stated they deliberately kept it small up until the time the BRAC announcement was made. At that time, six additional members were added. Most are ex-officio members. The six members were added, but the resolution creating the committee was never changed. A group who visited Lawton from the Department of Defense suggested they include the Mayor of Geronimo and a member to represent the Native American lands. He contacted Mayor Burdick from Geronimo who agreed to serve and he asked Councilmember Shoemate to represent the Native American land. This new resolution will have nineteen members representing the entire community.

Jackson stated that he feels there should be an additional Council member on this committee.

Mayor Purcell stated there are already two members of the council on the committee, plus the City Manager and the Mayor.

Shanklin questioned who was the group that made these suggestions.

Mayor Purcell stated members of the Office of Economic Assistance that provides funding to communities that are losing and gaining people because of BRAC. Lawton was the first community they visited that will be gaining people. They were excited that we had the BRAC committee in place. The BRAC committee does not make any decisions that do not first come to the City Council.

Shanklin questioned who chaired the committee.

Mayor Purcell stated he does.

Shanklin stated he does not have a problem adding a City Councilor to the committee since they represent 95% of the people in the county.

MOVED by Jackson, SECOND by Shanklin, to approve **Resolution 05-170** and amend to include an additional City Council member. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

Mayor Purcell stated he would bring a recommended appointment before the City Council at a later date.

Mayor Purcell requested that item #21 be discussed because it is a companion to item #6 which appoints Mayor Burdick and Bill Shoemate to the BRAC Committee.

21. Consider approving appointments to boards and commissions. Exhibits: None

MOVED by Warren, SECOND by Drewry, to approve the appointment of persons to boards and commissions. AYE: Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Givens. NAY: None. ABSTAIN: Shoemate. MOTION CARRIED.

3. Consider authorizing the City Attorney to accept the sum of Fifteen Thousand Ten and 02/100 Dollars (\$15,010.02) for settlement of the City's subrogation interest in the personal injury case of Jason P. Hamilton. Exhibits: None.

4. Consider approving a promissory note executed by Dorothy Anthony in favor of the City obligating her to pay for damages to City property and authorize the Mayor to execute the note. Exhibits: Promissory Note.

5. Consider declaring a 1 acre tract of land located in part of the Northwest Quarter of Section 31, Township 4 North, Range 12 West as surplus property, and authorize it to be sold at public auction and set a minimum bid of \$750.00. Exhibits: Request letter and Location Map.

7. Consider approving a resolution approving and supporting the efforts of Fort Sill and Land Legacy to create a buffer zone around the perimeter of Fort Sill. Exhibits: Resolution No. 05-\_\_\_ and Buffer Zone map.

Mitchell stated that in July the City Council approved two applications for submission to the Strategic Military Planning Commission and CCIDA for grant money that would assist us in matching federal dollars. The State Planning Commission approved our application for \$225,000 and he anticipates that on November 8<sup>th</sup> the CCID Board will also approve our application for \$150,000. Those local monies will then match U.S. Army Corp money which may be around \$900,000. The defense budget in Congress right now has a line item of \$20 million to go to a project similar to this. We submitted a letter in early August requesting \$4 million. We have the potential over the next 90-120 days of having a \$5-6 million budget to use to acquire these conservation easements. This project is an officially approved conservation buffer program through the Department of the Army called ACUB which is the Army Compatible Use Buffer Project. Before the City Council is a resolution that reaffirms the City's commitment to not only acquiring the conservation easements around Fort Sill, but also restricting development within those boundaries. Fort Sill's priority right now is Buffers #1 and #2. The first priority is to limit density development within those boundaries and restrict or discourage residential development. The primary concern is noise that occurs in or around this type of operation and the actual explosion of shells. We need to give Fort Sill the ability to grow.

Jackson stated there are some citizens who want to speak on this issue.

Mitchell distributed a map from Land Legacy which showed the property ownerships in buffer area #2. A large portion of the property is State School Land property. If the City Council adopts the resolution, this will limit residential development within those buffer zones.

Jackson stated that all the way around the entire perimeter of Fort Sill there is a mile buffer, but in the one area in East Lawton it is a one-mile buffer. He is concerned why there is a difference. That south side of this particular area is requested to be developed. He stated it is a prime piece of developed property and he is concerned with taking it out of development.

Mayor Purcell stated the reason there is only a one half mile in Buffer #1 is because unfortunately thirty years ago this was not done and everything has developed up to that area.

COL. Uberti stated the desire was to get a one-mile buffer all around. There was existing development in buffer #1 and was unattainable.

Givens questioned if this was voluntary.

Mitchell stated the conservation easement is voluntary.

Mayor Purcell stated it is voluntary in the sense that if you do not want to make a deal to keep it undeveloped, you don't have to do it.

Jackson stated they only want to develop the south part of that area which would leave a mile buffer. He noticed we are not doing the same thing in the Elgin area.

Givens stated if this is voluntary and they don't have to do it, what is the problem.

Mitchell stated the developer is requesting a water contract with the city.

Jim McGuire stated he has a letter from Robert Gregory, the Executive Director from Land Legacy stating that they are not interested in the south piece of property since that property has been sold. He also has a tape recording of Mr. Gregory from an answering machine.

Givens clarified that this property cannot be taken by imminent domain, but they are going to do in through the back door by saying the city won't build a water line to this property.

Mayor Purcell stated that this resolution states we will not allow development in that one-mile buffer all the way around Fort Sill.

Jackson stated that if the letter checks out, he cannot believe we would deny water to a developer.

Vincent stated that his staff requested the letter from Mr. McGuire a week ago and this is the first time he has seen it.

Mr. McGuire stated he has been working on this project for two years, even before BRAC became involved.

Mayor Purcell stated the letter says that Land Legacy has made an agreement on the north one half mile. It does not say that they don't need the south one half mile. That is what is attempting to be done by Land Legacy, Fort Sill and the Department of the Army to create as close as they can get to a one-mile buffer. We have already encroached around Fort Sill in other areas and they are trying to prevent a situation where Fort Sill is lacking in growth. We need to protect the citizens and installation in this community.

Jackson clarified that if the landowner does not want to participate in this situation, they don't have to.

Mitchell stated that is correct.

Jackson questioned if the next effort by the City of Lawton administration would be to deny water to the proposed development.

Mitchell stated that is the City Council's prerogative. As far as we have gone with this program in recognizing the commitments that have been made by the community, it would be wise of the City Council not to encourage residential development.

Jackson stated he can easily concede the one half mile, but he does not know if the property owners will concede to the entire one mile.

Givens questioned if the owners are entitled to loss of development costs.

Mitchell stated it is the purchase of development rights.

Linda Reinwand stated she owns the one half mile section of land in question. Mr. McGuire has purchased 25 acres from them on the southwest quarter. Land Legacy has signed an agreement with them for a conservation easement for 160 acres that immediately adjoins Fort Sill. They have told them in person and left a recording on their voice mail, which she has on tape, and also sent a letter stating they are not interested in that south quarter. There are homes all in that area, there will not be a clean buffer zone. Right across Cache Road, there is a development going on that is a mile deep from Fort Sill.

Shanklin questioned if all the residents around Fort Sill have agreed to the buffer issue.

Mitchell stated no. Land Legacy has been contacting most of the landowners in buffer zones #1 and #2.

Mayor Purcell stated they are not buying the land, but they work out an agreement that says they will not develop with high-density housing.

Warren questioned when Land Legacy approached the Reinwands, was there discussion only concerning the northern 150 acres or did they originally attempt to gather easements on the entire property.

Ms. Reinwand stated they were only interested in the back 160 acres because they had already developed a portion of the south section. She stated that Mr. Gregory from Land Legacy stated on the recording that they are not interested. She did not understand why the city is not trying to stop a development starting to the west of her property.

Mitchell questioned how many units Mr. McGuire had planned to develop.

Mr. McGuire stated 100-120 units on one half acre lots.

Mayor Purcell stated the whole issue is the encroachment on Fort Sill that will cause problems for Fort Sill and this community in the future. This council has to decide what will happen over the next 40 years.

Givens stated that is not really the question tonight. The question is if this is really necessary since there is already development on the property.

Mayor Purcell stated they do not want any more development than they already have. The issue is to not add any more density, people or houses to that one-mile buffer zone.

Jackson stated he strongly believes in a buffer zone around Fort Sill and believes it is necessary for the future of Lawton and Fort Sill. But there is concern with the entire one-mile buffer in buffer zone #2. He believes they can suffice with one half mile as they do all around the rest of Fort Sill.

COL Uberti stated the goal is to figure out what are the compatible uses and not necessarily to stop development but to develop wisely and prevent development from further encroaching on missions current and future. The average width, north to south, of Fort Sill is about 6 miles and the closer development comes to the post boundary, that starts to infringe on training. The less usable land available for training, the relative value of the training facility starts to go down. As a matter of policy, the department is looking for wiser ways to develop that land so as not to encroach upon military training missions.

Shanklin questioned how they determine compensation.

Mitchell stated an independent appraiser is hired to determine the value of the development rights and that is the price paid for that easement.

Mayor Purcell stated the owner can use the land for other things, just not high-density housing.

Jackson stated if the property owner does not sign an agreement with Land Legacy, they can retain their property with full development rights. The question has to be if the City Council is going to deny these people water because they refuse to sign an agreement with Land Legacy.

Mitchell stated the property owner could get water from a rural water district.

Ms. Reinwand stated they have been talking to Land Legacy for several years and they have never indicated any interest in the south quarter. They were only interested in the half mile. She stated she loves the idea of the buffer zone, but she always intended to keep the south quarter, which at the time they had sold 25 acres to Mr. McGuire.

Mitchell stated it was important enough for the Department of the Army to designate the one-mile buffer in that corridor.

Mayor Purcell stated the City Council has to decide what is best for the next 25 to 50 years for Fort Sill.

Givens questioned who is coordinating this with Land Legacy.

Mitchell stated that Land Legacy is a land trust out of Tulsa. They have been working with the Department of the Army and the National Park Service for about two years on this project. Their primary goal is to preserve vital valuable open space and land for community enjoyment. In this case it happens to be to protect the operations and missions at Fort Sill.

Mayor Purcell suggested this item be tabled until the next meeting and invite a representative from Land Legacy.

Warren asked that the tape from Ms. Reinwand's voice mail be transcribed.

Delores Delluomo stated she owns 100 acres that border to Fort Sill. She has also been told by Land Legacy that they were not interested in that property.

Ms. Reinwand stated that Mr. Gregory told them that further east, where it is not so adjacent to Lawton, they are interested in bigger areas. This close in, there is already too much development.

MOVED by Warren, SECOND by Drewry, to table this item to the October 25, 2005 City Council meeting and request the tape be provided to the City Clerk for transcription. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

8. Consider denying a request for the installation of traffic control on SW C Avenue at 19<sup>th</sup> Street and the removal of traffic control on NW Erwin/23<sup>rd</sup> Street at Cache Road. Exhibits: Traffic Commission Minutes.

9. Consider approving a Resolution authorizing the installation of a traffic control device on NE Independence at Cache Road and at NW Compass and Euclid. Exhibits: Traffic Commission Minutes and **Resolution No. 05-174**.

10. Consider acknowledging receipt of a permit from the Oklahoma State Department of Environmental Quality for the construction of 4,692 linear feet of eight (8) inch PVC gravity sewer line, 1,561 linear feet of eight (8) inch PVC water line and 3,946 linear feet of six (6) inch PVC water line and all appurtenances to serve the Eastlake Addition Part 2, City of Lawton, Comanche County, Oklahoma. Exhibits: Permits are on file in the City Clerk's office.

11. Consider adopting Resolution No. 05-\_\_\_ amending Resolution 05-61 extending the moratorium on the issuance of building permits for the construction of buildings in an area bounded by the north right-of-way line of Ferris Avenue, the north right-of-way line of Gore Boulevard, the west right-of-way line of 4<sup>th</sup> Street, and the east right-of-way line of Railroad Street from April 15, 2005 to June 15, 2006. Exhibits: **Resolution No. 05-171**.

12. Consider approving a contract with SESAC, Inc. to obtain authorization for the City of Lawton to lawfully use the copyrighted musical compositions included in the SESAC repertory. Exhibits: Contract is on file in the City Clerk's office.

13. Consider approving a request to enter into a contract application process with the Oklahoma Highway Safety Office and the City of Lawton for an overtime reimbursement of traffic enforcement project. It will also allow for the purchase of 2 hand-held radar systems to be used for this enforcement project and allow for public information and education events pertaining to it. This contract will be in conjunction with the Project Under 21 Enforcement Grant. Exhibits: Copy of the project contract application request in the amount of \$80,000.00 is on file in the City Clerk's office.

14. Consider accepting the Highland Cemetery Road Overlay Phase III Project #2005-11 as constructed by T & G Construction, Inc. and placing the Maintenance Bond into effect. Exhibits: None

15. Consider ratifying the actions of the Public Works Director/City Engineer awarding a contract to BRB Metal Roofing & Manufacturing for the Fire Station #4 Re-Roofing Project #2005-14. Exhibits: None

Jackson stated he is concerned about the price of the contract. He stated he also contacted a commercial builder in town and was given a considerable different price than what is on the bid. He stated he would be willing to give the name of the builder to the Public Works Department. We are talking about the difference between \$54,000 as compared to \$79,200. He stated this bid is at \$1,236 per square, which is 10 foot by 10 foot. Besides the cost is too expensive, he went by the fire station and personally inspected the area on the inside and he did not see that this is an emergency and has to be done in thirty days. He agreed that it does need to be addressed quickly, but we need to go through the normal bid procedures to get this taken care of.

Mayor Purcell stated the City Council approved this as an emergency and told staff to proceed.

Shanklin stated he has the minutes from the last meeting and he made the motion to approve. He stated the need for a metal roof was never mentioned.

Jerry Ihler, Public Works Director, stated the agenda item background states that they will seek proposals for a metal roof which will have a longer life than the existing membrane type roof.

Shanklin stated that was not in the minutes and they were declaring an emergency because Mr. Purcell said water damage is now causing health concerns due to mold and mildew and additional rainfall could cause additional damage to the interior of the building. About three years ago the Patterson Center was closed for five or six months because of mildew and mold. The Council was going to tear it down and spend three quarters of a million dollars to build it back. He was called and told there was an ozone machine in Ardmore. He asked Mr. Baker if they could try, and he said yes. Four or five of the machines were brought in and with \$5,000 they remodeled the mechanical room, took out the insulation, put the sheetrock back and it is in operation again today because of that ozone machine. They never even said thank you to those who brought in the machine and spent their time, nor was it ever mentioned in the newspaper or television. He stated he went out to the fire station with Councilmember Jackson. It was very vague on what they were getting.

Ihler stated it is the same as what they got for the police station which was bid as a retrofit metal roof.

Shanklin questioned if they were interested in any insulation on those concrete T's.

Ihler stated he did not know.

Shanklin stated the City Council is spending \$80,000 and he is not going to let anyone say that he voted to spend \$1,300 for 100 square feet.

Jackson stated the point needs to be made that there are different types of metal roofs and he wants the public to understand that he cannot go along with this because it is costing the taxpayers as much as an additional \$25,000 by speeding up the bid process.

Givens questioned if the builder Councilmember Jackson spoke to understood the type of roof that is requested.

Jackson stated yes.

Shanklin stated the only reason he bought into this is because it was an emergency and had to be done right now. He stated that now they have plenty of time, but they need to know what that roof is for \$79,000 and what it encompasses. There is a tremendous difference in the different types. There is still the fire station over on Rogers Lane, why don't they just fix them both.

Ihler stated they had visited with Building & Grounds division and looked at doing away with flat roofs because they aren't able to keep them from leaking over periods of time. Through the discussions they wanted to go with a retrofit metal-pitched roof so it is not holding water. The process of moving toward a metal roof started before they even did the police station. Staff utilized the same specs as the police station.

Shanklin stated he would like to see the specs before he can ratify this decision.

Jackson stated he did not mean to start a controversy but the standing seam metal roof is by far the best way to go on roofing a flat roof. The cost is expensive but it is the way to go and he would like to go that way. But he does believe that because of the emergency clause and not going through the normal bidding process that they could pay as much as \$25,000 more than they should for this particular roof.

Ihler stated they utilized the same specifications they utilized at the police station. When they received the bids, they were not that far out of line with what was paid when they went through the normal bid process for the police station.

Jackson stated the builder he spoke with indicated that the standing seam roof normal price was around \$900 a square and a screw down metal roof was around \$700 a square. At this time we are paying \$1,236 per square. That is his concern.

Shanklin stated he would like to table this issue and go back out for bid.

Ihler stated at the last meeting when the City Council approved the waiving of the competitive bidding and take the bids, they also authorized staff to tell the contractor to proceed. The contractor is buying the material.

Shanklin stated they can use it on another job.

Ihler stated they authorized the contractor to proceed because they were the low bid and they met the specifications.

Shanklin stated they were led to believe this was an emergency, and evidently it is not.

Chief Hadley stated they had two or three dozen leaks in the building during the last storm of September 12<sup>th</sup> or 13<sup>th</sup>. Prior to that they did have some leaks. There was a hail storm the night of the last Council meeting, the following night there was heavy rain and he was called early that morning and they had already taken four or five gallons of water out of the inside of the station. They have had exposure reports filled out by personnel for mold and mildew. They have had it tested for mold and it came in at 70% inside.

Shanklin questioned who performed that test.

Hadley stated someone locally who is a certified indoor environmentalist.

Shanklin questioned who hired this person.

Hadley stated Jeff Welch, our health and safety officer, contacted this person. Jeff indicated they typically like to see it below 60% on the inside.

Jackson stated no one wants the safety and welfare of our firefighters in jeopardy. He stated several of us who own



flat roof buildings know that they leak all the time. He is in the roofing business and his roof leaks all the time. It is something that they live with and he has a hard time believing that they are in a health crises because the last rain it leaked. All he is asking is to change this from an emergency situation to go through the proper bid procedure.

Vincent stated that based on the motion of the last City Council meeting, the Council properly authorized staff to enter into a contract. The Council has the option to cancel the contract, however, if the contractor suffers any damage as a result of that cancellation, he could come back at us for damages.

Shanklin stated he would like to see us go back for bid on both fire station #4 and station #3 on Rogers Lane. He asked why we had to ratify this issue.

Vincent stated this item did not have to come back to Council.

Patton questioned if station #3 also had a flat roof.

Hadley stated yes. He stated roofs for both stations were included in the budget this year.

Patton questioned if the specifications will come back to Council.

Shanklin stated the engineers can handle that.

MOVED by Shanklin, SECOND by Jackson, to cancel the existing contract for Fire Station #4 and request staff go back out for bid for the roofs on both Fire Stations #3 and #4. AYE: Jackson, Shanklin, Patton, Haywood, Warren. NAY: Givens, Drewry, Shoemate. MOTION CARRIED.

16. Consider adopting a resolution extending the present five percent (5%) Emergency Telephone fee through June 30, 2006. Exhibits: Proposed **Resolution No. 05-172** and Resolution No. 04-61.

18. Consider awarding (CL06-005) VHF/UHF Portable & VHF/UHF Mobile Radio Equipment to Lawton Communications of Lawton, Oklahoma. Exhibits: Abstract of bids and department recommendation.

19. Consider awarding (CL06-007) Degreaser to Mid-American Research Chemical, of Columbus, Nebraska. Exhibits: Abstract of bids and department recommendation.

20. Consider awarding (CL06-010) Testing Services to Standard Testing and Engineering Company, of Lawton, Oklahoma. Exhibits: Abstract of bids and department recommendation.

22. Consider approval of payroll for the periods of September 12- 25, 2005. Exhibits: None.

#### OLD BUSINESS ITEM:

23. Consider declaring the structure at 915 C Avenue dilapidated. Exhibits: Summary documents with supporting photos, reports from the Fire Marshal, Housing Inspectors, and case history are available from Neighborhood Services.

Tony Griffith, Neighborhood Services Supervisor, stated this item was brought before the City Council on July 12, 2005 and was tabled for 90 days. The property was reinspected two weeks ago. The leak in the roof has been repaired and this structure is sound and no longer represents a risk to the community.

Shanklin stated that a risk to the community is not the only criteria that we use. He stated a property can be unsightly, without being a risk to the community.

Vincent stated there is a list of things within the statute that are adopted in the city code. Properties don't necessarily need to fit with all the categories, it can be one or more.

Haywood questioned if Griffith had been inside the building.

Griffith stated the inside needs to be cleaned up, there is no evidence of mold, mildew or rodents. There is no evidence of any type of health risk. The structure, in his recommendation, does not meet the standard to be declared dilapidated.

Mayor Purcell stated the recommendation from staff is to not declare this property dilapidated.

Shanklin stated the next time it rains, he will show staff where it leaks.

Mitchell stated that one of the conditions when it was tabled 90 days ago is that the owner put the property up for sale. He questioned if the owner has attempted to sell the property.

Griffith stated the owner has received one offer which was below the property value.

Warren stated the property was listed with Johnny Owens.

Mayor Purcell stated there is no action needed on this items.

#### NEW BUSINESS ITEMS:

24. Hold a public hearing and consider an ordinance annexing approximately 155 acres of land into the corporate city limits located in Southwest Quarter of Section 23, Township 2 North, Range 11 West, Comanche County, Oklahoma, and declaring an emergency. Exhibits: Petition, Location Map, Proposed Ordinance and Notice of Publication.

Vincent stated his office received a petition from the property owners in the area commonly know as Quail Run Estates on NE Cache Road and 45<sup>th</sup> Street. Approximately 63% of the property owners have requested annexation into the city of Lawton. This exceeds the statutory requirement by 13%. It is a contiguous area with the exception of the south side where there is a lot of approximately 5 to 6 acres that will not be included in the annexation and is not part of the subdivision. The City Council will consider this lot at the October 25<sup>th</sup> City Council meeting.

Warren questioned if the streets meet our specifications.

Vincent stated they do not.

Warren questioned if there was a way to include wording in any annexation that the approval is contingent upon the creation of a paving district.

Vincent stated they cannot, but the annexation ordinance states that the City of Lawton would not repair the streets.

Patton stated the streets are much better than Pecan Valley.

Shanklin stated they are better than most of the streets in town.

Vincent stated that once this area is annexed and there is a pothole, the City would have to go out and fix it.

Patton stated he does not have a problem with these residents joining Lawton, but there are so many roads now that need attention.

Vincent stated they were primarily concerned about curbs and gutters. They did get the right-of-way width but are not proposing to those residents that the city will come out and install curbs, gutters and storm drains.

Warren stated he was concerned about where we will draw that line. He sees people outside the city limits create an addition with substandard streets, no curb and gutter, and they shortcut on a lot of things. They then want to be annexed and it is the citizens of Lawton who are responsible to bring those up to standard. He is not so concerned with this area because the roads are good, but where are they going to draw the line with the next area that has gravel streets with a little bit of oil, especially since there are no county standards.

Jackson stated that several months ago the residents from the Quail Run Addition approached him, the City Manager and the City Attorney requesting the opportunity to be annexed. He thought it was a good idea because we have had such a hard time annexing surrounding property around the city of Lawton. We can have some say over future development. He stated this is a housing development with \$300,000 - \$350,000 homes on 5-acre tracts and the residents will not allow any other development in that area. This is a country lane road that is in pretty good shape and he understood that the water lines were installed according to City of Lawton building codes.

Warren stated that homebuilders have stood up and told the City Council that the City of Lawton requires too much and that people build outside the city limits to avoid the strict guidelines. It seems that this is just the backdoor way to get around those rules. They build the homes, streets and infrastructure without the covenants of the City of Lawton and then they want to be a part of the city. They are getting the best of both worlds and he is concerned that ten years from now the citizens of Lawton will foot the bill when it comes to bringing everything up to the standards that it originally should have been built. He feels that this is putting a burden on the citizens of Lawton.

Vincent stated under the new state law dealing with annexation which went into affect last year, there is either voluntary annexation or involuntary annexation. In a voluntary annexation, we are allowed to accept it the way it is. With an involuntary annexation we must bring it up to code within five years. Of the two ways we are allowed to annex, from an economic standpoint, this is the better of the two ways.

Warren stated unless you only annexed undeveloped property.

Vincent stated that even with undeveloped property, there must be a plan to provide city services within five years.

Warren stated we would not be responsible for roads and things that are the developer s responsibility.

Vincent stated that is correct.

Jackson stated that these are individual citizens that own this property that are making this request and want to be a part of the city of Lawton. It is not a developer or a builder. He still believes that any time the city has an opportunity to take in a relatively good piece of developed property, we need to take this.

Mayor Purcell stated he thought that if a whole community wanted sidewalks in their neighborhood, we could put sidewalks in and create some kind of taxing district that those residents who will benefit from those sidewalks will have to pay.

Vincent stated that is called an improvement district. You can do this for sidewalks, streets, water and sewer, but it requires a vote of the citizens in that district.

Mayor Purcell stated that if at some later date, the residents of this community decided they wanted to have curbs and guttering along the streets, they could ask for it and become that improvement district and only those people will pay for those improvements.

PUBLIC HEARING OPENED.

Frank Frabotta, 4513 NE Pheasant Way, stated their streets in Quail Run Estates surpass a lot of streets in Lawton. None of the residents are looking for sidewalks or curbs. They like the way they are living right now and would like to be annexed by the city. They have nice homes and their water system is one of the better ones around.

PUBLIC HEARING CLOSED.

Mayor Purcell stated that the reason they want to be annexed is because there is a problem with water. There was a water association but it is now dissolved. In order for this area to continue to receive water, they must be annexed. That is the main reason for the request.

MOVED by Jackson, SECOND by Haywood, to adopt **Ordinance No. 05-83** annexing approximately 155 acres into the city limits, waive the reading of the ordinance, read the title only and declare an emergency. AYE: Jackson, Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 05-83

An ordinance providing for the attachment of a certain parcel of land into the City of Lawton, Comanche County, Oklahoma, classifying said territory as temporary A-2 (Suburban District) zoning classification for a period not exceeding one (1) year, and declaring an emergency.

25. Hold a public hearing and consider a resolution amending the 2025 Land Use Plan from Residential/Low Density to Commercial and an ordinance changing the zoning from R-1 (Single-Family Dwelling District) to C-1 (Local Commercial District) zoning classification located at 1702 - 1706 NW Ferris Avenue. Exhibits: Resolution No. 05-\_\_\_\_, Ordinance No. 05-\_\_\_\_, Location Map, Site Plans, Applications and Draft CPC Minutes.

Mayor Purcell stated that the person who requested this rezoning is not in attendance and in an attempt to save money and time he would like to open the public hearing and then entertain a motion to continue the public hearing until the next meeting.

PUBLIC HEARING OPENED.

MOVED by Drewry, SECOND by Givens, to continue the public hearing to the October 25, 2005 City Council meeting.

AYE: Shanklin, Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson. NAY: None. MOTION CARRIED.

26. Consider providing financial support to the Santa Shops Lawton campaign. Exhibits: Letter of request from the Lawton Fort Sill Chamber of Commerce.

MOVED by Warren, SECOND by Shanklin, to approve providing \$5,000 to support the Santa Shops Lawton Campaign. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

27. Consider an appeal on the denial of a building permit for a garage conversion in a special flood hazard area located at 733 NW Heinzwood Circle submitted by Larry Sessums. Exhibits: Letter of Denial by the License and Permit Center, Map indicating floodplain, Notice of Appeal, Recommendation from Civil Engineer and Order.

Larry Wolcott, Civil Engineer, stated Mr. Sessums applied for a building permit to convert his garage into a family room at his existing single-family residence. This structure is located in a special flood hazard area. Staff could not issue the permit because the finished floor of the garage did not meet the floodplain ordinance being a foot above the base flood elevation.

Shanklin questioned if the rest of the house was one foot above.

Wolcott stated he did not believe it was. The reason for the variance is he is converting storage space into habitable space, so the code would require that elevation to be one foot above. Mr. Sessums is actually very close, about 3 inches short of meeting that requirement.

Warren stated that staff is recommending that the City Council approve this appeal.

Mayor Purcell stated they have to go through the appeal process.

Wolcott stated there is no exterior construction involved in this project, so there will be no adverse impact on the flood plain.

Mayor Purcell stated there are six questions that must be voted on separately and a majority of the vote must be in the affirmative to grant this appeal and waiver.

A) Will the request, if granted, result in no increase in flood levels during the base flood discharge? AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Haywood, Warren. NAY: None. ABSENT: Patton. MOTION CARRIED.

B) Will the structure be built no greater than two (2) feet below the base flood elevation?  
AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Haywood, Warren. NAY: None. ABSENT: Patton. MOTION CARRIED.

C) Has the applicant been given written notice that the granting of a variance to construct the lowest floor elevation below the base flood elevation would cause the cost of flood insurance to the appellant to increase commensurate with the increased risk resulting from the reduced lowest floor elevation? AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Haywood, Warren. NAY: None. ABSENT: Patton. MOTION CARRIED

D) If the structure has historic character or qualifies under the historic criteria of the State, is the variance the minimum necessary to preserve the historic character and design of the structure? AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Haywood, Warren. NAY: None. ABSENT: Patton. MOTION CARRIED

E) Does the variance meet all of the following:

- (1) A showing of good and sufficient cause; and
- (2) A determination that failure to grant the variance would result in a hardship to the appellants; and
- (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to the public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing city code or regulations; and
- (4) The variance is the minimum necessary, considering the flood hazard, to afford relief.

AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Haywood, Warren. NAY: None. ABSENT: Patton. MOTION CARRIED

F) Does the variance contain all the conditions deemed necessary to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions throughout the city? AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Haywood, Warren. NAY: None. ABSENT: Patton. MOTION CARRIED

Mayor Purcell declared that the variance has been granted.

28. Consider declaring a single tract of land described as Lots 1 through 42 of Block 3 of Plainview Addition as surplus property, and authorize the tract to be sold at public auction and set a minimum bid of \$21,000.00. Exhibits: Request letter and location map.

Vincent stated he would like to amend this item. The original request was for lots 1-42 of Block 3. After the agenda was published, staff received a request to reduce to 22 lots which would be lots 1-11 and 32-42 of Block 3 of Plainview Addition and reduce the bid price to \$10,500.

Givens questioned if all this land was zoned R-1.

Vincent stated there is a restriction placed on this land by the Rose Hill/Lawtonview/Urban Renewal District as public facility which the church would qualify. If they do desire to sell it off, some other things will have to be done to amend the plans.

MOVED by Haywood, SECOND by Jackson, to declare a single tract of land described as lots 1 through 11 and lots 32 through 42 of Block 3 of Plainview Addition as surplus property, and authorize the tract to be sold at public auction and set a minimum bid of \$10,500. AYE: Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood. NAY: None. MOTION CARRIED.

29. Consider terminating the Retainer Agreement for Professional and Legal Services with Ashton, Wisener & Munkacsy and approve the Retainer Agreement for Professional and Legal Services with J.W. Doolin of 802 D Partnership and authorize the Mayor and City Clerk to execute the document. Exhibits: Retainer Agreement for Professional and Legal Services on file in the City Clerk s office.

Mayor Purcell stated the City Attorney has requested that this item be postponed until after the Executive Session.

30. Discuss the potential of consolidating City of Lawton Emergency Operations with Comanche County and take appropriate action if necessary. Exhibits: None

Mayor Purcell stated the City Council previously directed staff to work on the consolidation of E-911 services between the City of Lawton and Comanche County. In light of the recent hurricanes, staff determined some things in the emergency operations plan need to be reworked. He is told the county plan also needs some work. Rather than spend a lot of time and effort to look at both plans, they need to consolidate emergency operation services.

For years there was a consolidated county emergency operations center that worked well. An incident happened where the sirens were not blown and the City Council at the time decided to create the city s own emergency operations center. This request is just to direct the City Manager to get on with this consolidation. This would allow Derrell Morgan to concentrate on running the consolidated E-911 and Chuck Jones, Comanche County, can devote all his time running emergency operations.

Jackson stated that he and Councilmember Warren have been holding E-911 merger meetings and the general consensus among the group is to proceed with this merger process. He stated the City Manager requested that Chuck Jones write up the protocol for the EOC. There is tentative approval from Comanche County.

Warren stated this is the first step in a lot of things that the city will be able to cooperate with the county and all different government entities to start moving forward and saving the taxpayers some money.

Shoemate questioned the location of the center.

Mayor Purcell stated that most likely it will be placed in the basement of the Comanche County Courthouse.

Shoemate questioned if there will be any expense.

Mayor Purcell stated not right away. The reconfiguring they are doing in the basement of the Courthouse has approximately 5,000 square feet which will house the center and probably have room to house the E-911 center at some later date.

Jackson stated the idea is that eventually a back up E-911 dispatch system will be placed in the basement of the county as well. Only as a back up to our primary system.

Mayor Purcell stated the city would have the back up system for the emergency operations center.

MOVED by Jackson, SECOND by Warren, to direct the City Manager to work on the consolidation of City of Lawton emergency operations with Comanche County. AYE: Shanklin, Patton, Warren, Shoemate, Givens, Drewry, Jackson. NAY:

Haywood. MOTION CARRIED.

31. Consider agreeing with the initial placement of City of Lawton job titles within the previously approved job classification categories. Exhibits: Job categories with job titles, market plan and previous council commentaries.

Jim Scholes, Human Resources Director, distributed an updated list of the initial placement of positions within the City of Lawton. The Employee Advisory Committee has been distributing the list among the employees and some changes have been made. He stated this placement needs to be approved to proceed with the pay analysis and grade assignments. That process may also lead to further adjustments. This gives staff a benchmark to start with the rest of the process. He stated the EAC will meet on Thursday and will report back to staff with any further changes.

Warren questioned John Thomas, Chairman of EAC, and asked if he was in agreement with the placement of the positions.

Mr. Thomas stated there are probably a couple of positions they are missing, but they are ready to move forward with the process. The EAC is in agreement so far with staff recommendations.

MOVED by Warren, SECOND by Haywood, to approve the initial job category placements of job titles and instruct staff to proceed with the pay plan analysis and development. AYE: Patton, Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin. NAY: None. MOTION CARRIED.

32. Consider approval of the City Manager s request to add two (2) staff positions to the Community Services Department and take the appropriate action necessary to amend the FY 2005-2006 Municipal Budget. Exhibits: Budget summary for Planning and budget summary for License & Permits.

Mitchell stated he is requesting an additional Senior Planner in the Planning Division and a Senior Plans Examiner in the License and Permit Division. He stated staff has experienced a 10% increase in the permitting over last year. He stated the Civil Engineering issue will continue to be a problem area, but temporary staff has made some progress. They will readdress that issue as they evaluate the pay plan. He announced that Richard Rogalski has accepted the position of Planning Director. He currently works as an engineer in the Public Works Department.

Mayor Purcell questioned if an item will be brought back to supplement the budget.

Mitchell stated that at some point and item will be brought back to the council for a supplemental appropriation.

MOVED by Warren, SECOND by Givens, to approve the City Manager s request to add two staff positions to the Community Services Department. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

#### REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Warren stated he attended a concert in the Elmer Thomas Park and thanked the Parks & Recreation Department for all their hard work.

Haywood stated Ms. Audrey Freeman passed at the age of 101 and the funeral will be held on Friday. He thanked Ms. Sharp for making all the arrangements for Mrs. Freeman. Ms. Freeman always encouraged young people to continue their education. He stated a football game will be held on November 12 at Cameron University between Langston University and Haskell Indian Nations University.

Shanklin stated he goes by the landfill on a weekly basis and it looks very good. He stated there is a big mound of dirt at Flowermound and Gore. Where did they get the authority to put in at this location.

Vincent stated he could not answer that question.

Shanklin stated he called the project engineer who said that was not part of his bid. He is out around \$25,000 or \$30,000. That is a change order that he would approve. He questioned if we were mad at these people for any reason.

Buckley stated that is on site temporary storage, so it is not considered fill. They are in compliance with the contract and there is not a permit required to have that temporary on site fill. There is a permit requirement that City Council passed a few months ago with regards to changing a permanent process or any infill processing.

Mayor Purcell stated the person who is now complaining, at his urging for several months, the City Council

approved this ordinance based on that persons demands when there was a problem on East Gore on the fill. This Council passed an ordinance saying you must get a permit before you can fill. Now all the sudden this person does not want to get a permit because it is his property. Staff has gone out and told them they must submit for a permit.

Mike Jones, License and Permit Center, stated they have submitted an application, but it is incomplete.

Shanklin questioned if we were going to shut the job down until this is in compliance.

Buckley stated he is in compliance because this is on site temporary storage. He is not filling, but providing temporary storage for that material for construction. Since that is construction and on site storage, there is no permit requirement because it is not fill. Where he is wanting to permanently take that dirt, would be a fill site that is off of the construction area which would require a permit. That is the permit that is pending.

Shanklin stated the ordinance was too broad, if they did pass it like that. Common sense tells you to get rid of the dirt as soon as you can without stacking it up.

Mayor Purcell stated what happens if they spread it out in a flood plain and then we are in trouble with DEQ. Without a permit we just don t know.

Jackson questioned why the application was incomplete and does staff see a problem approving the permit.

Jones stated the applicant did not submit a site plan and he cannot make a determination at this time.

Mayor questioned if the City Council wants to bring the ordinance back and change it. He stated they passed the ordinance at the assistance of this person and now they don t want to use it. They put the staff in a bind by directing them to put this in place and now do we want to tell them not to follow the ordinance.

Drewry thanked those who supported the fundraiser for the Boys and Girls Club which was underwritten by Dan Mullins. She stated the strategic planning task force has been meeting on a regular basis and are moving forward. They received a presentation from Nolen Watson, the Mayor of Cache. She stated that she has been to some deployment ceremonies at Fort Sill and was very impressed. She encouraged everyone to attend.

COL Uberti thanked the City Council for their support of Fire Prevention Week. He stated next week he will be attending an education summit in Washington DC with Barry Beauchamp and members of the school board. The goal of the summit is to improve student transition and community transition based on the BRAC recommendations. This should provide some tools available to the community to aid in the transition. He thanked everyone for their support in the deployment and redeployment ceremonies.

Vincent stated the Oklahoma Municipal Utilities Provider Water Conference will be held on November 17<sup>th</sup>. Formal invitations have not come out, but all the City Council and Public Works people will be invited. He stated the Lawton Public School Foundation fundraiser will be held this Friday at Golden Corral.

Mitchell reminded everyone that OML will be in Lawton for their regional dinner on Thursday at 6:00 pm at the Museum of the Great Plains. They will also be hosting a training session that day for newly elected officials.

Shoemate stated his church, Calvery Baptist Church at 8<sup>th</sup> & H Avenue, will host a dental ministry on Thursday evening that is free to the community. The best dentists in the country donate their time to extract teeth.

The Mayor and Council convened in executive session at 8:38 p.m. and reconvened in regular, open session at 9:02 p.m. Roll call reflected all members present.

#### BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

33. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending Workers Compensation claim of Jerry Lynn, and if necessary, take appropriate action in open session. Exhibits: None.

Vincent read the title of Item 33 shown above. He said the Council discussed the claim

MOVED by Jackson, SECOND by Warren, to authorize the City Attorney to enter into settlement negotiations. AYE: Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren, Shoemate. NAY: None. MOTION CARRIED.

34. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss collection of the City s deficiency judgment in US Mortgage vs. Shannon, et al, Case No. CJ-2004-198, District Court of Comanche County; and if necessary, take appropriate action in open session. Exhibits: None

Vincent read the title of Item 34 shown above. He said the Council did receive a briefing on the judgment and possible courses of action were discussed.

MOVED by Givens, SECOND by Haywood, to direct the City Attorney not to pursue any action in this matter. AYE: Haywood, Warren, Shoemate, Givens, Drewry, Jackson, Shanklin, Patton. NAY: None. MOTION CARRIED.

#### ADDENDUM:

1. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the consolidated lawsuit, in the Comanche County District Court, Comanche County Rural Water District No. 1, et al vs. City of Lawton and Lawton Water Authority, Case No. CJ-2003-928; and if necessary, take appropriate action in open session.

Vincent read the title of Item 1 shown above. He said the Council did receive a briefing on the case. No action is required.

Mayor Purcell stated they need to return to item #29.

29. Consider terminating the Retainer Agreement for Professional and Legal Services with Ashton, Wisener & Munkacsy and approve the Retainer Agreement for Professional and Legal Services with J.W. Doolin of 802 D Partnership and authorize the Mayor and City Clerk to execute the document. Exhibits: Retainer Agreement for Professional and Legal Services on file in the City Clerk s office.

MOVED by Shanklin, SECOND by Jackson, to terminate the Retainer Agreement for Professional and Legal Services with Ashton, Wisener & Munkacsy and approve the Retainer Agreement for Professional and Legal Services with 802 D Partnership and authorize the Mayor and City Clerk to execute the document. AYE: Shoemate, Givens, Drewry, Jackson, Shanklin, Patton, Haywood, Warren. NAY: None. MOTION CARRIED.

#### ADJOURNMENT

There being no further business to consider, the meeting adjourned at 9:07 p.m. upon motion, second and roll call vote.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

TRACI HUSHBECK, CITY CLERK

ADJOURNMENT